



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,096	10/22/2003	Donn Reynolds Armstrong	ITP 24.1A	6590
43008	7590	04/27/2006	EXAMINER	
HARRY M. LEVY EMRICH & DITHMAR, LLC 125 SOUTH WACKER DRIVE, SUITE 2080 CHICAGO, IL 60606-4401			KASTLER, SCOTT R	
			ART UNIT	PAPER NUMBER
			1742	

DATE MAILED: 04/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/692,096	ARMSTRONG ET AL.	
	Examiner	Art Unit	
	Scott Kastler	1742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) 31-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 1742

Election/Restrictions

Applicant's election without traverse of Group I, claims 1-30 in the reply filed on 4/10/2006 is acknowledged.

Claims 31-36 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 4/10/2006.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4, 7-10, 17, 19 and 28-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Fellabaum. Fellabaum teaches a transfer mechanism (116) between a first (92) and second (124) vessel, where the first vessel is in a vacuum atmosphere, comprising a generally cylindrical housing, a screw (118), where the screw and housing can cooperate to compress the material transferred, and where there is a restrictor plate (122) including a plurality of apertures therein, at the entry to the second vessel, thereby showing all aspects of the above claims since the actual intended use of the claimed apparatus (for the transfer and separation of specific materials) cannot be relied upon to fairly further limit claims to the apparatus itself. See MPEP 2114.

Art Unit: 1742

Claims 1, 2, 5, 8, 13-17, 19 and 23-28 are rejected under 35 U.S.C. 102(b) as being anticipated by JP'692. JP'692, in the English language translation for example, teaches a transfer mechanism (2) between a first (3) and second (5) vessel, where the second vessel is in a protective atmosphere, comprising a generally cylindrical housing, a screw (2), where the screw and housing can cooperate to compress the material transferred, and where the housing includes a mesh for transferring liquids compressed from the slurry away from the solids, thereby showing all aspects of the above claims since the actual intended use of the claimed apparatus (for the transfer and separation of specific materials) cannot be relied upon to fairly further limit claims to the apparatus itself. See MPEP 2114.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-13, 17-23 and 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fellabaum. As applied to claim 1 above, Fellabaum shows all aspects of the above claims except the specifically recited screw pitch or housing configurations, although the variously recited screw and housing configurations all operate in substantially the same manner with substantially the same results. The subject matter as a whole would have been obvious to one of ordinary skill in the art at the time the invention was made because it has been well settled that where, as in the instant case, no new or unexpected result has been shown to arise therefrom,

Art Unit: 1742

then alteration of the shape or configuration of a component shown by the applied prior art (the screw or the housing) would have been a modification obvious to one of ordinary skill in the art at the time the invention was made. See MPEP 2144.04 IV B. In the instant case, absent any demonstrated new or unexpected result arising therefrom, motivation to alter the shape or configuration of either or both of the housing and screw taught by Fellabaum to any other equally useful configuration or shape would have been a modification obvious to one of ordinary skill in the art at the time the invention was made.

Claims 1-8 and 11-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP'692. As applied to claim 1 above, JP'692 shows all aspects of the above claims except the specifically recited screw pitch or housing configurations, although the variously recited screw and housing configurations all operate in substantially the same manner with substantially the same results. The subject matter as a whole would have been obvious to one of ordinary skill in the art at the time the invention was made because it has been well settled that where, as in the instant case, no new or unexpected result has been shown to arise therefrom, then alteration of the shape or configuration of a component shown by the applied prior art (the screw or the housing) would have been a modification obvious to one of ordinary skill in the art at the time the invention was made. See MPEP 2144.04 IV B. In the instant case, absent any demonstrated new or unexpected result arising therefrom, motivation to alter the shape or configuration of either or both of the housing and screw taught by JP'692 to any other equally useful configuration or shape would have been a modification obvious to one of ordinary skill in the art at the time the invention was made.

Art Unit: 1742

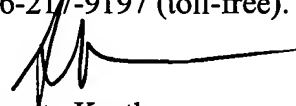
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Each of Kuri and Brumagim are also cited as further examples of transfer mechanisms including screw compression devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Kastler whose telephone number is (571) 272-1243. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on (571) 272-1244. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Scott Kastler
Primary Examiner
Art Unit 1742

sk